

Attorney Docket No.: J3683(C)  
Serial No.: 10/521,982  
Filed: December 8, 2005  
Confirmation No.: 1989

### **REMARKS**

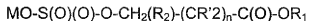
Claim 1 has been amended to incorporate the requirements of claim 6; additionally, the claim has been amended to specify that component ii) is a styling polymer, and to change the upper end of the claimed hair styling polymer range from 10% by weight to 6% by weight. See, for example, the specification at page 3, lines 12 to 13, and page 3, lines 22 to 24. Claim 2 has been amended to correct a minor typographic error (missing hyphen). Claims 4 and 5 have been amended to maintain consistency with the language of amended claim 1. Claims 6, 9 and 10 have been cancelled without prejudice. It is respectfully submitted that the above described amendments overcome the rejections under 35 USC 112. Entry thereof is respectfully requested.

Claims 1-9 stand rejected as anticipated by Cho (US5366665). Additionally, claims 1-9 stand rejected under 35 USC 102(e) as anticipated by Filippi et al. (US 2004/0175338). Lastly, claims 1-9 stand rejected under 35 USC 102(e) as anticipated by Sakuta (US 6,984,390). These rejections are respectfully traversed.

Pursuant to the subject invention it was found that the inclusion of 2-hydroxyalkanoic acid in a leave-on styling product comprising 0.1 to 10% of a styling polymer improves the composition's high humidity retention properties. Leave-on styling products include, for example, hair sprays, tonics, gels styling creams and mousses.

Cho is directed to personal product compositions such as, for example, soap bar compositions, facial or body cleansing compositions, shampoos for hair or body, conditioners, cosmetic compositions or dental compositions. The compositions comprise alkyl sulfoxy alkanoate compounds of the formula:

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as therein more particularly described. The sulfooxy alkanoate functions as a surfactant, and is disclosed as being mild, well foaming, calcium insensitive, and providing a "beneficial reagent" component to the skin. The disclosed beneficial agent is formed by the sulfooxy alkanoate compound metabolizing (through the action of skin enzymes) or hydrolyzing to form a hydroxy carboxylic acid ester, a hydroxyl carboxylic acid, a sulfooxy carboxylate and/or a free alcohol such as a fatty acid alcohol or glycerol. To the extent 2-hydroxyalkanoic acid is disclosed (as, for example, in Example 7), **it is as a starting material in the production of the described sulfooxy alkanoate compounds.** There is nothing in Cho that discloses or suggests leave-on styling products or the use of a 2-hydroxyalkanoic acid in conjunction with a styling polymer to provide a leave-on styling product having improved high humidity hold.

Filippi et al. is directed to a cosmetic composition that includes a) at least one ester of a diol dimer with a C<sub>4</sub>-C<sub>34</sub> monocarboxylic acid or with a dicarboxylic acid, b) at least one coloring agent, and c) at least one pasty compound to provide a composition disclosed as having a mean gloss of greater than or equal to 30. **To the extent that 2-hydroxy alkanonic acids are disclosed, for example, as in paragraph 0036, it is as a starting material in the production of the described esters.** There is nothing in Filippi et al. that discloses or suggests the use of 2-hydroxyalkanoic acid together with a styling polymer to provide a leave-on styling product having improved high humidity hold. Additionally, a composition as described by claim 1 of the subject application is described in Applicants' priority document EP 02255129.5, filed July 22, 2002. See wrapper. EP 02255129.5 **antedates** the March 20, 2003 US provisional applications from which Filippi et al. claims priority (as well as French priority applications 03 02809 and 03 02811 filed

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March 6, 2003). Accordingly, it is respectfully submitted that the subject invention was made before the US filing data of Filippe et al., and that the rejection under 35 USC 102(e) is improper and should be removed.


Sakuta et al. is directed to cosmetic materials that contain a sterol-modified silicone compound having a melting point of 40°C or less, wherein the sterol-modified silicone compound is disclosed as proving stability and moisture retention properties, the moisture-retention properties of the compound resulting from its sterol functionality. The cosmetic materials further comprise at least one of a phospholipid, a compound having an alcoholic hydroxyl group in its molecular structure, an oil, water, powder, colorant, surfactant, crosslinked organopolysiloxane, silicone resin and ultra-violet light protection component. Water-soluble polymers are among the materials disclosed as compounds having an alcoholic hydroxyl group in their molecular structure. To the extent that 2-hydroxy alkanolic acids are disclosed, it as additional components of specifically exemplified compositions (See Examples 21 and 22). Example 21 discloses a transparent gel cosmetic that includes, among other components, 10.0 wt.% of the described silicone compound, 10.0 wt.% of polyether-modified silicone, 10.0 wt.% of 1,3-butylene glycol, 9.0 wt.% of polyethylene glycol 400, and 1.0 wt. % of 2-hydroxyoctanoic acid. Example 22 is a sunscreen toilet water that includes 14.0 wt.% off the described silicone, 10.0 wt.% of polyether-modified silicone, 10.0 wt.% of 1,3-butylene glycol, 3.0 wt. % of octyl p-methoxybenzalacetate, 2.0 wt.% of hydrophobically-treated ultrafine particle titania, 1.5 wt% squalane, 1.0 wt.% of 2-hydroxyoctanoic acid and 5.0 wt% of 2-hydroxypropane acid Neither of these Examples is a styling product as described by the subject claims. There is no disclosure in Sakuta et al. of the combination of a 2-hydroxy alkanolic acid and styling polymer to provide a leave-on styling product as set forth in the subject claims, nor is there any disclosure of the benefits of such a combination in terms of providing a composition with improved high humidity hold.

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In view of the above described amendments and remarks, reconsideration and allowance of the subject claims is respectfully requested.

If a telephone conversation would be of assistance in advancing the prosecution of the present application, applicants' undersigned attorney invites the Examiner to telephone at the number provided.

Respectfully submitted,

  
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